

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA : NO. 02-11,599  
:   
:   
vs. : CRIMINAL DIVISION  
: Motion to Suppress  
ROBERT JAMES GILLETTE, III, :   
Defendant :

OPINION AND ORDER

Defendant has been charged with DUI and two summary offenses following a vehicle stop made by Trooper Toboz on October 20, 2001. In the instant Motion to Suppress, filed September 30, 2002, Defendant contends all evidence obtained as a result of the stop must be suppressed as the stop was unlawful. A hearing on the motion was held December 20, 2002.

At the hearing, the Commonwealth relied upon the testimony of Trooper Toboz from the preliminary hearing, and introduced into evidence a transcript of that testimony. According to Trooper Toboz, he stopped Defendant’s vehicle because he “had a license plate light out.” At the hearing before this Court, however, Defendant introduced evidence that the license plate light was not out that evening, that it was working.

A police officer is authorized to make a traffic stop whenever he has “articulable and reasonable grounds” to suspect a violation of the Motor Vehicle Code. Commonwealth v Vincett, 806 A.2d 31 (Pa. Super. 2002). While there is no requirement that an actual violation be established, the Commonwealth must show, in the absence of an actual violation, the officer had a reasonable basis for his belief that the Motor Vehicle Code was being violated. Commonwealth v Palmer, 751 A.2d 223 (Pa. Super. 2000); Commonwealth v Vincett, *supra*. In the instant matter, since the Court finds credible the evidence that the license plate light was working at the time of the stop, the stop may be upheld only if the Court further finds the officer had a reasonable basis for his belief that it was not. The Commonwealth has failed to establish,

however, evidence of any circumstances which would support such a finding. The Court is constrained, therefore, to conclude there was no reasonable basis for the officer's action in stopping the vehicle and the evidence obtained as a result must be suppressed.

ORDER

AND NOW, this 17<sup>th</sup> day of January, 2003, for the foregoing reasons, Defendant's Motion to Suppress is hereby granted and all evidence obtained as a result of the vehicle stop on October 20, 2001 is hereby suppressed.

By the Court,

Dudley N. Anderson, Judge

cc: DA  
William Miele, Esq.  
Gary Weber, Esq.  
Hon. Dudley N. Anderson